

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2005-050276

07/31/2006

HON. THOMAS DUNEVANT, III

CLERK OF THE COURT
S. Bindenagel
Deputy

MJ5 L L C

G MICHAEL TRYON

v.

MARICOPA COUNTY

RICHARD W GARNETT

MINUTE ENTRY

The Court has considered Defendant Maricopa County's Motion for Reconsideration.

Plaintiff's Complaint in TX2005-050276 says in part, "WHEREFORE, it is respectfully requested that this Court enter an Order as follows: A. *Declaring that the property is exempt from property tax.*" Complaint at 2:24-26. The Court interprets this to be a request for a declaratory judgment. Had the Court been willing and able under the rules to decide the matter on the spot, no issue would have arisen. However, the Court notes the obvious, that reaching a resolution in civil litigation takes considerable time. The Court does not interpret A.R.S. §42-16201 to require that a dissatisfied property owner file annual appeals in a *declaratory judgment action* to perpetuate its jurisdiction while his request for *global* declaratory relief is pending before it. For a statute to *divest* a court of jurisdiction it already possesses, the legislature must declare its intent to create divestiture "explicitly and clearly." *Fry v. Garcia*, -- Ariz. --, 2006 WL 1843640 (App.2006); *see also* C.J.S. Courts § 72: "As a general rule, jurisdiction once acquired is not defeated by subsequent events, even though they are of such a character as would have prevented jurisdiction from attaching in the first instance." No such language exists indicating the legislature's intent to divest the Tax Court of jurisdiction already acquired in TX2005-050276.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2005-050276

07/31/2006

A declaratory judgment for Plaintiff in TX2005-050276 (and the Court repeats that it is not at this point considering the merits) will determine that all tax levies on or after the date of filing the Complaint, including the 2006 taxes which became delinquent after that date, are invalid and unenforceable. It would be immaterial whether TX2006-050064 was filed prior to the statutory deadline.

Therefore,

IT IS ORDERED denying Defendant's Motion for Reconsideration.